

## **Informal Dispute Resolution (IDR) Program Overview**

Pursuant to SEA 396-2003, ISDH is to contract with an entity that has experience in conducting IDR for a state survey agency to create and operate a voluntary informal IDR pilot program for health facilities. The program must comply with the requirements under 42 CFR 488.311.

ISDH has determined that Michigan Peer Review Organization (MPRO), the Medicare Quality Improvement Organization for Michigan, complies with this requirement and has been awarded the contract.

The Indiana State Department of Health (ISDH), Long Term Care (LTC) is offering additional information and choices in the Informal Dispute Resolution (IDR) process.

- ISDH paper review-conducted by IDR Surveyor Supervisor
- ISDH face-to-face-conducted by IDR Surveyor Supervisor and one Surveyor Supervisor
- MPRO-fee for service-paper review (one nurse review)-substandard quality of care & immediate jeopardy (two nurse review)-or, requested physician review (by separate tag).

Note: A facility must select one (1) option for deficiencies affecting Medicare/Medicaid findings. MPRO will not review state findings.

For EACH deficiency, the facility must provide to ISDH:

- A one paragraph, written summary for each tag appealed explaining why the facility is disputing a particular tag.
- Copy(s) of all supporting documents with all resident names and any other identifying information obliterated (redacted) and replaced with the Resident Identifier on the 2567.
- Pertinent Portions of the record with key documentation outlined with a marker (Highlighting does not photocopy).
- Supporting documents should be labeled "Attachment A", "B", etc.
- All pages submitted should be numbered sequentially from beginning to end.

MPRO has developed a one-page service agreement that describes the fee-for service process, lists the service fees, and clarifies the commitment of both parties. The form is generic and requires the facility to insert the facility's name and the signature, name, and title of the responsible party and the date. Since MPRO must receive the signed agreement prior to initiating the requested review, the facility must submit the signed agreement with the IDR request to ISDH. IF the signed agreement is not received with the IDR request, ISDH will not forward the IDR request until receipt of the signed original agreement. Please note the ISDH will not delay enforcement actions pending results of an IDR review. Also, do not send the IDR request directly to MPRO.

MPRO will maintain a list of qualified reviewers who have signed confidentiality agreements and conflict of interest disclaimer statements. MPRO will ensure that the assigned reviewer(s) for each case has no conflict of interest.

A brief overview of MPRO's independent IDR review process is as follows:

- MPRO requires one copy of review materials for all cases: two copies for substandard quality of care/immediate jeopardy cases.
- MPRO will complete the IDR review and return a decision to ISDH within twenty (20) days of receipt of review materials from ISDH. ISDH will notify facility of the independent review decision.
- MPRO will mail an invoice to facility at the end of the month for services performed and payment is expected within thirty (30) days.

For each tag involving a deficient practice cited as immediate jeopardy or substandard quality of care, MPRO will select at least two qualified nurse reviewers to review the tag. For all other tags, MPRO shall assign one qualified nurse reviewer.

Per Centers for Medicare & Medicaid Services (CMS) letter 3-25, the results of the IDR process will serve only as a recommendation, ISDH will make the final determination. The facility will receive BOTH the MPRO recommendation letter and the ISDH final determination letter.

### **Instructions for Requesting Informal Dispute Resolution (IDR)**

Complete the unshaded portions of the IDR Tracking Record. Select one of the following: an ISDH paper review, an ISDH face-to-face review, or a MPRO paper review. The fact that a tag is being disputed must also be clearly stated on the Plan of Correction (POC). Include on a separate document from the POC, a one paragraph written summary of the reasons for the dispute for each tag, referencing supporting documents. Include the tag number and resolution proposed, i.e., remove tag, etc. If supporting documentation will accompany the IDR request, please only submit one copy at the same time you submit the POC; unless choosing MPRO review for substandard quality of care/immediate jeopardy, then two copies are required. Corrective actions must be specified on the POC, as if the tag were not being disputed. If selecting MPRO review, do not send the IDR request directly to MPRO. ISDH will forward all submitted documentation to MPRO.

Note: A facility cannot choose more than one (1) option for federal deficiencies (for deficiencies affecting Medicare/Medicaid findings). MPRO is not an option for state findings only.

A service agreement has been developed by MPRO. If selecting MPRO review, the facility administrator of designee must complete the appropriate portion of the service agreement and submit the IDR request. MPRO will complete the IDR review and return a decision to ISDH within twenty (20) days of receipt of review materials. MPRO will mail an invoice to the facility at the end of the month for services performed and payment is expected within thirty (30) days.

Ensure that the IDR request and POC are submitted within ten (10) calendar days of facility's receipt of the CMS-2567. A facsimile copy is acceptable. The IDR request must be submitted at the same time as the POC. The POC will be forwarded to the appropriate survey supervisor for review and approval, and the IDR request will be forwarded to the IDR survey supervisor. For cases involving deficient practices cited at the immediate jeopardy or substandard quality of care, both MPRO and ISDH will select at least two qualified nurse reviewers to review the case. For all other cases, MPRO shall assign one qualified nurse reviewer.

### **IDR Process**

The IDR process will be conducted a review of the materials submitted at the time of the request for IDR. All documents and materials that are to be considered for either face-to-face or paper review must be included at the time of the IDR request. The description of the dispute for each tag must be a clear and concise statement. State explicitly what is disputed and why it is being disputed, cite specific errors, and where support for the dispute is located in supporting documents. Pertinent portions of supporting documents should be outlined with a marker. Supporting documents should be labeled "Attachment A", "B", etc. A statement that the facts asserted on the CMS-2567 are not supported (or similar statement) is not sufficient.

Note: Only documents that are pertinent and necessary to explain the facility's position will be considered. Excessive numbers of documents should not be submitted.

ISDH will provide written notice to the facility of the outcome of the IDR process. If MPRO review is selected the facility will receive both the MPRO recommendation letter and the ISDH final determination letter.

### **Additional Information about IDR**

Only deficiencies cited on the current survey, originally identified on the CMS-2567, may be disputed. Any evidence submitted to refute deficiencies must pertain only to the deficiencies and the language of the regulation cited. Only documents that are relevant to the dispute, and which were in existence at the time of the survey, will be considered.

IDR does not contemplate bargaining between providers and the ISDH; rather it is a preliminary opportunity to refute survey findings that are believed to be inaccurate and to present evidence to support that belief. The purpose of this process is to give providers one opportunity to dispute cited deficiencies after a survey. The IDR process may not be used to delay the formal imposition of remedies or to challenge any other aspect of the survey process, including but not limited to:

- Classification of deficiencies, i.e., scope and severity assessments
- Remedies imposed by the enforcement agency
- Failure of the survey team to comply with a requirement of the survey process
- Inconsistency of the survey team in citing deficiencies among facilities
- Inadequacy of the IDR process

### **IDR Forms**

- Regulatory Services Informal Dispute Resolution (IDR) Record (State Form 50058)
- MPRO Service Agreement Form

### **Contact Information**

**Scheduling: IDR Secretary- (317) 233-7002**

**Status of Current IDR:** [suscott@isdh.in.gov](mailto:suscott@isdh.in.gov)